

Message Text

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C O N F I D E N T I A L MONTEVIDEO 4775

E.O. 11652: GDS
TAGS: PINT SHUM PGOV UY
SUBJ: GOU PROPOSES REDUCED MINIMUM PENALTIES FOR
SUBVERSIVE CRIMES

REF: (A) MVD 2941 (DTG 071248Z AUG 76) (NOTAL)
(B) MVD 3451 (DTG 151944Z SEP 76) (NOTAL)
(C) MVD 2901 (DTG 041528Z AUG 76) (NOTAL)
(D) MVD 4087 (DTG 271642Z OCT 76)

BEGIN UNCLASSIFIED

1. SUMMARY. IN WHAT APPEARS TO BE A POSITIVE MOVE TO
IMPROVE THE HUMAN RIGHTS SITUATION IN URUGUAY, THE EXECUTIVE
HAS PROPOSED THE REDUCTION OF MINIMUM SENTENCES WHICH CAN
BE IMPOSED FOR CERTAIN ACTIVITIES ASSOCIATED WITH
SUBVERSION. SINCE IT HAS BEEN RELIABLY REPORTED THAT OVER
1000 PRISONERS HAVE BEEN PROCESSED BUT NOT YET SENTENCED
IT IS AT LEAST POSSIBLE THAT HUNDREDS COULD BENEFIT FROM
THE NEW LAW IF THE TIME THEY HAVE SERVED EXCEEDS THE NEW
MINIMUM. THE PROPOSAL ALSO APPEARS TO REFLECT THE GOVERNMENT'S
BELIEF THAT A MORE BENIGN TREATMENT OF POLITICAL OFFENDERS
IS NOW CALLED FOR. END SUMMARY.

2. ON DECEMBER 6 THE EXECUTIVE SENT TO THE COUNCIL
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OF STATE A PROPOSED LAW WHICH WOULD REDUCE THE MINIMUM

SENTENCES WHICH CAN BE IMPOSED FOR TWO CRIMES INCLUDED IN THE MILITARY PENAL CODE. THE PROPOSED LAW, SIGNED BY THE PRESIDENT, MINISTER OF DEFENSE, AND MINISTER OF INTERIOR, WOULD REDUCE FROM SIX TO THREE YEARS IN PRISON THE MINIMUM SENTENCE FOR "SUBVERSIVE ASSOCIATION" AND FROM TWO YEARS IN PRISON TO TWO YEARS DETENTION FOR "ASSISTANCE TO A SUBVERSIVE ASSOCIATION". THE DISTINCTION BETWEEN PRISON AND DETENTION FOR THE LATTER IS IMPORTANT INASMUCH AS PERSONS SUBJECT TO DETENTION RATHER THAN PRISON MAY BE FREE ON BAIL WHILE AWAITING TRIAL.

3. THE EXECUTIVE SAID THE BILL'S PURPOSE IS TO ADJUST THE LAW TO CHANGED CIRCUMSTANCES. THUS, IN THE PREAMBLE TO THE PROJECTED LAW THE GOVERNMENT SAYS "WHILE THE CRIME OF SUBVERSION CONTINUES TO BE AS GRAVE IN 1976 AS IN 1972, THE CIRCUMSTANCES WHICH DICTATED THE DRAFTING OF THE ORIGINAL LAW HAVE CHANGED IN GREAT PART. IN EFFECT, ACTIVE SUBVERSION HAS BEEN OVERCOME, THE SITUATION CREATED IN THE UNIONS AND SCHOOLS HAS BEEN CONTROLLED... IT IS CLEAR, THEREFORE, THAT THERE ARE NO LONGER THE DEEDS AND CIRCUMSTANCES TODAY WHICH JUSTIFIED THE HIGHER PENALTIES IN 1972."

4. THE BILL WOULD CHANGE THE MILITARY PENAL CODE AS FOLLOWS:

ART. 60 (V) (SUBVERSIVE ASSOCIATIONS) -- THOSE WHO ASSOCIATE THEMSELVES IN ORDER TO TRY TO CHANGE THE CONSTITUTION BY DIRECT ACTION OR THE FORM OF GOVERNMENT THROUGH MEANS NOT ALLOWED BY THE PUBLIC INTERNAL LAW WILL BE PUNISHED WITH A PENALTY OF THREE TO EIGHTEEN YEARS IN PRISON. (NOTE: THE MINIMUM PENALTY WAS FORMERLY SIX YEARS IN PRISON.)

ART. 60 (VI) (ASSISTANCE TO SUBVERSIVE ASSOCIATIONS) -- ANY ASSISTANCE TO A SUBVERSIVE ASSOCIATION IS PUNISHABLE BY 24 MONTHS' DETENTION TO EIGHT YEARS IN PRISON. (NOTE: THE MINIMUM PENALTY WAS FORMERLY

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TWO YEARS IN PRISON.) END UNCLASSIFIED

5. COMMENT: BEGIN CONFIDENTIAL. THE PROPOSED REDUCTION IN MINIMUM SENTENCES WOULD APPEAR TO BE RELATED TO WHAT PRESIDENT MENDEZ, IN A SEPTEMBER 14 DISCUSSION WITH THE AMBASSADOR (REFTEL C), TERMED A NEW "ACT OF BENIGN TREATMENT" SINCE IT COULD PROVIDE THE BASIS FOR THE RELEASE OF HUNDREDS NOW BEING HELD IN PRISON. PRESIDENT

MENDEZ INDICATED IN THE SAME CONVERSATION THAT THE ACT WOULD UNDERWRITE A "BENIGN" ATTITUDE AND TREATMENT TOWARD A BROAD SPECTRUM OF SECURITY CASES WITH A SPECIFIC INTENT OF RELEASING PEOPLE FROM PRISON, PARTICULARLY WOMEN. ARMY CINC VADORA, IN AN EARLIER CONVERSATION WITH THE AMBASSADOR AND DCM (REFTEL B), SAID THAT AS PART OF THE SOLUTION TO THE PRISONER PROBLEM HERE THAT UP TO 1,500 PRISONERS NOW BEING HELD COULD PROBABLY BE RELEASED AND THAT SOME BUT NOT ALL MIGHT BE PAROLED IN THIS COUNTRY. SINCE THE NEW LAW WOULD MOST IMMEDIATELY AFFECT THOSE NOT YET SENTENCED, IT IS IMPORTANT TO RECALL THAT A WELL-INFORMED SOURCE RECENTLY TOLD US THAT OVER 1000 PRISONERS IN LA LIBERTAD AND PUNTA RIELES PRISONS HAVE NOT RECEIVED FINAL SENTENCING (REFTEL A). WHILE WE DO NOT KNOW HOW MANY OF THOSE FACE CHARGES ONLY UNDER ARTICLE 60 (V) OR (VI)

, PUBLISHED REPORTS OF ARRESTS INDICATE THAT IT COULD BE A SIZEABLE NUMBER. SINCE MANY ARRESTS PROBABLY OCCURRED LONGER THAN TWO OR THREE YEARS AGO, IT IS AT LEAST POSSIBLE THAT A SUBSTANTIAL NUMBER OF PERSONS COULD BE FREED IF THE PROPOSED LAW IS ADOPTED. WHETHER OR NOT PRISONERS ARE RELEASED DEPENDS ON THE INTENTIONS OF THE GOVERNMENT AND, PERHAPS TO A GREATER EXTENT, ON THE EFFECTIVENESS OF THE MILITARY JUSTICE SYSTEM WHICH UP UNTIL NOW HAS NOT BEEN KNOWN FOR ITS SPEEDINESS. THE BILL ITSELF IS MOVING AHEAD AS IT HAS ALREADY BEEN APPROVED BY ONE COMMITTEE IN THE COUNCIL OF STATE, ALTHOUGH THE COUNCIL WILL ADJOURN BETWEEN DECEMBER 15 - FEBRUARY 15. IN AN INTERVIEW, A COUNCILOR, STRESSING THE IMPORTANCE OF THE LEGISLATION, SAID THE COUNCIL MIGHT GO INTO EXTRAORDINARY SESSION AFTER THE PLANNED DECEMBER 15 ADJOURNMENT, SO AS TO FINISH UP ON THE BILL. END CONFIDENTIAL.

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